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10/042,092	01/07/2002	Lyle N. Scheer	082225P6337	6565

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EXAMINER	
DIVECHA, KAMAL B	
ART UNIT	**PAPER NUMBER**
2151	

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/042,092	SCHEER ET AL.	
	Examiner	Art Unit	
	KAMAL B. DIVECHA	2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 September 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-9,20,22 and 25-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4-9,20,22 and 25-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09 September 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Response to Arguments

Claims 1-2, 4-9, 20, 22, and 25-29 are pending in this application, of which claims 25-29 are newly added by the applicant (see remarks, page 7).

Claims 3, 10-19, 21 and 23-24 have been cancelled without prejudice by the applicant (see remarks, page 7).

Applicant have filed a new sheet of drawings, the Examiner therefore withdraws the objection made to the drawings in the non-final office action.

Applicant's arguments filed 09/09/2005 have been fully considered but they are not persuasive.

In response to applicant's argument (remarks, page 8) that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "automated building the digital image" and "the network setting for servers should be configured based on the network design") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
In response to applicant's argument that Huang does not teach or suggest the network setting for servers should be configured based on the network design, however this feature is not recited in the claim. Examiner would interpret as if applicant was intending to argue that Huang does not teach or suggest the process of configuring network settings for one or more servers in the network into a digital image, the configuration of the network settings based upon the design of the network, as recited in claim 1. Examiner has clearly addressed this limitation in the Office Action mailed on 06/07/2005 as being disclosed by Abboud (see the action below). Abboud

explicitly discloses the process wherein re-provision images are transferred via ftp and stored as a file in the images partition and then re-provision utility automatically sets network settings for a new image, i.e. the network settings are received or retrieved from the file and configured into the new application in order to provide similar operational and connection features to the original settings on the server (Abboud, page 3 block #36, page 5 block #52). Therefore, Abboud explicitly teaches the process of configuring network settings for one or more servers in the network into a digital image, the configuration of the network settings based upon the design of the network.

DETAILED ACTION

Claims 1-2, 4-9, 20, 22, and 25-29 are presented for examination.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 27, applicant has failed to state the intended teaching of the subject matter in the claim. It would be unclear to the one of ordinary skilled in the art to interpret the meaning of the limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1-2, 4-7, 9, 20, 22, 25, 26 and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abboud et al. (hereinafter Abboud, US 2002/0184484 A1) in view of Huang et al. (hereinafter Huang, U. S. Patent No. 6,735,548 B1).

As per claim 1, Abboud discloses a method comprising: configuring network settings for one or more servers in the network into a digital image, the configuration of the network settings based upon the design of the network (pg. 3 block #36); building the digital image for at least one of the servers in the network (pg. 2 block #15, pg. 5 block #50 and fig. 4B item #459); and deploying the digital image onto at least one of the servers in the network (pg. 2 block #16, pg. 3 block #32, 36 pg. 5 block #47, 51, pg. 6 block #61 and fig. 4A item #405), however, Abboud does not explicitly disclose the process of receiving a design of a network.

Huang discloses the process of receiving a specified network design topology from a network configuration tool (see abstract, fig. 7 item #80, col. 6 L30-31, col. 5 L60-63). Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the

invention was made to incorporate the teaching of Huang as stated above with Abboud in order to receive network design.

One of ordinary skilled in the art would have been motivated because it would have provided an automatic analysis of arbitrary network topologies (Huang, col. 1 L5-47). Secondly, one of ordinary skilled in the art would have been motivated because it would have provided a system that automatically re-configures servers with a new or different application and efficiently utilizing the limited number of available servers (Abboud, pg. 1 block #8, 12) and would have allowed re-usability of servers by re-configuring/re-purposing of the servers to a needed application (Abboud, pg. 3 block #32)

As per claim 2, Abboud discloses a system wherein the network comprises a server farm (pg. 1 block#7 and fig. 2).

As per claim 4, Abboud discloses the process of producing an operational server farm (fig. 2 and pg. 3 block #37).

As per claim 5, Abboud discloses the process wherein created digital images includes network settings configured for an operational state (pg. 2 block #17, pg. 3 block #36).

As per claim 6, Abboud does not explicitly disclose the process of generating the network design. Huang discloses the process of producing a network topology (read as generating the network design, col. 2 L35-46). Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to incorporate the teaching of Huang as stated above with Abboud in order to generate the network design or topology. One of ordinary skilled in the art would have been motivated because of the same reasons as set forth in claim 1.

As per claim 7, Abboud discloses the process of dynamically building the digital image (pg. 5 block #49-50 and pg. 6 block #58).

As per claim 9, Abboud discloses the process of rebuilding the digital image for at least one server in the network and redeploying the digital image for the at least one server (pg. 5 block #52, fig. 6 item #600 and pg. 6 block #58).

As per claim 26, Abboud discloses an apparatus comprising a master configurer (fig. 6 item #600).

As per claim 28, Abboud discloses a system comprising a graphic user interface (pg. 2 block #19), however Abboud does not explicitly disclose the process of generating a network topology for the network through graphic user interface. Huang discloses a system comprising a graphic user interface to generate the network topology for the network (fig. 1 item #106 and fig. 7 item #86, fig. 5-6 and col. 2 L35 to col. 3 L35). Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to incorporate the teaching of Huang as stated above with Abboud in order to provide user interface for generating a network topology. One of ordinary skilled in the art would have been motivated so that the user would have been able to create and adjust the topology or other parameters to allow for a quick comparison to alternative designs.

As per claim 29, Abboud discloses a system comprising a database to store one or more digital images of a server, one or more network topologies, and network configurations (pg. 5 block #55, pg. 6 block#61).

As per claims 20, 22 and 25, they do not teach or further define over the limitations in claims 1-7, 9, 26 and 28-29. Therefore claims 20, 22 and 25 are rejected for the same reasons as set forth in claims 1-7, 9, 26 and 28-29.

1. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abboud et al. (hereinafter Abboud, US 2002/0184484 A1) in view of Huang et al. (hereinafter Huang, U. S. Patent No. 6,735,548 B1) and further in view of Haun et al. (hereinafter Haun, U. S. Patent No. 6,751,658 B1).

As per claim 8, Abboud in view of Huang does not explicitly disclose the process of deploying the dynamically built image over a network connection in response to a net boot request from a first server.

Haun, from the same field of endeavor, discloses the process of transferring the boot image over a network connection in response to a net boot request from a network client (a network computer or server, fig. 3 step# 355, 375, 380, 385 and col. 9 L9 to col. 10 L16). Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to incorporate the teaching of Haun as stated above with Abboud and Huang in order to transfer or deploy the boot image in response to a net boot request from a server.

One of ordinary skilled in the art would have been motivated because net booting approach greatly simplifies network computers client administration and provides a high level of reliability for the network computers and/or servers (Haun, col. 9 L33-36).

3. Claim 27 is rejected under 35 U.S.C. 103(a) as being obvious over Abboud et al. (hereinafter Abboud, US 2002/0184484 A1) in view of Huang et al. (hereinafter Huang, U. S.

Patent No. 6,735,548 B1), and further in view of Shwed et al. (hereinafter Shwed, U. S. Patent No. 5,835,726).

As per claim 27, Abboud in view of Huang does not explicitly disclose a system comprising a design rule logic block that contains instructions on how a component in the network can and cannot be employed in the network (as per applicants specification paragraph #23, the rule base includes a set of rules that govern what is and what is not allowed through the firewall).

Shwed discloses a system (a firewall) comprising a rule base that includes set of filter language instructions that instructs the firewall how to handle both inbound and outbound communications (see abstract, col. 14 L54-65 and col. 9 L18 to col. 10 L22). Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to incorporate the teaching of Shwed as stated above with Abboud in view of Huang in order to provide a rule base that instructs a system how to handle the traffic.

One of ordinary skilled in the art would have been motivated because it would have provided security by controlling the traffic being passed, thus preventing illegal communication attempts in the networks (Shwed, col. 1 L39-43).

Additional References

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Abboud et al., U. S. Patent No. 6,636,958 B2.

b. Ludovici et al., U. S. Patent No. 6,567,849 B2.

c. Wilde et al., U. S. Patent No. 6,066,182.

d. Knox et al., U. S. Patent No. 5,978,911.

e. Selitrennikoff et al., U. S. Patent No. 6,301,612 B1.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAMAL B. DIVECHA whose telephone number is 571-272-5863. The examiner can normally be reached on Flex schedule 8 hr days (10.00am-6.30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KD

September 21, 2005.

ZARNI MAUNG
SUPERVISORY PATENT EXAMINER